

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

JAMES J. HAYES, Individually and on
Behalf of All Others Similarly Situated,

Plaintiff,

vs.

HARMONY GOLD MINING COMPANY
LIMITED, BERNARD SWANEPOL, and
NOMFUNDO QANGULE,

Defendants.

Electronically Filed

No. 1:08-cv-03653-BSJ-MHD

(ECF Case)

**NOTICE OF NON-OPPOSITION TO THE MOTION OF JAMES J. HAYES
FOR APPOINTMENT AS LEAD PLAINTIFF AND APPROVAL OF LEAD
PLAINTIFF'S CHOICE OF COUNSEL**

On June 16, 2008, within 60 days of the publication of the requisite notice on April 16, 2008 (“the Notice”), proposed Lead Plaintiff James J. Hayes (“Hayes”) timely filed a Motion for Appointment as Lead Plaintiff and for Approval of Selection of Lead and Liaison Counsel in this action on behalf of a proposed class of persons or entities who purchased or acquired Harmony Gold Mining Company Limited’s American Depository Receipts (“ADRs”) and call options, and sellers of Harmony Gold Mining Company Limited’s put options, between April 2, 2007 and August 7, 2007, inclusive (the “Class Period”). No other member of the proposed Class has filed a motion in response to the Notice. Therefore, Hayes respectfully submits this notice to inform the Court that no Class members oppose his motion.

As set forth in the prior submission, Hayes: (i) timely filed a motion; (ii) has the largest financial interest in the relief sought by the class (having losses of \$3,618 during the Class Period); and (iii) satisfies the typicality and adequacy requirements of Federal Rule of Civil Procedure 23.

Accordingly, pursuant to Section 21D(a)(3)(B) of the Securities Act of 1934 , as amended by the Private Securities Litigation Reform Act for 1995 (the “PSLRA”), 15 U.S.C. § 78u-4(a)(3)(B), Hayes is the “most adequate plaintiff” to lead this litigation on behalf of the class and Hayes’s selection of Schiffrin Barroway Topaz & Kessler, LLP as Lead Counsel for the Class and Brodsky & Smith, LLC as Liaison Counsel should be approved. *See Jolly Roger Offshore Fund v. Bkf Capital Group*, No. 07 Civ. 3923 (RWS) 2007, U.S. Dist. LEXIS 60437, at *13 (S.D.N.Y. Aug. 14, 2007) (granting unopposed motion for appointment of lead plaintiff); *Fitzgerald v. Citigroup, Inc.*, No. 03-CV-4305 (DAB), 2004 U.S. Dist. LEXIS 5066 (S.D.N.Y. Mar. 26, 2004) (same).

Dated: July 3, 2008

Respectfully submitted,

BRODSKY & SMITH, LLC

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